

Implementation Plan for Compliance with Chapters 304 and 820 of the Rules of the Maine Public Utilities Commission

I. Introduction

As required by Chapter 304(3)(O) of the Rules of the Maine Public Utilities Commission (“PUC”), Bangor Hydro-Electric Company (“BHE”) hereby submits this Implementation Plan (“the Plan”) to provide for compliance with the Standards of Conduct set forth in Title 35-A M.R.S.A. §§ 3205, 3206 and Chapters 304 and 820 of the PUC Rules. This Plan shall govern BHE’s compliance with the applicable Standards of Conduct given the creation and operation of Emera Energy Services, Inc. (“EES”), a Competitive Electricity Provider (“CEP”) affiliated with BHE.

II. Procedures to Ensure Compliance with the Plan

A. Compliance Officer. BHE, on or prior to the effective date of this Plan, shall appoint an individual to have overall responsibility for ensuring compliance with the requirements of Chapters 304 and 820 by all employees of BHE. This individual shall be an employee of BHE whose duties with BHE do not directly involve that employee with the affairs of EES. This individual’s duties and responsibilities shall include:

1. the right to review all relevant action by any employee of BHE to determine whether employees are complying with the requirements of Chapters 304 and 820, and maintain a record of all such reviews;
2. the obligation to inform any BHE employee that the employee’s actions are not in compliance with Chapters 304 and 820;
3. the obligation and authority to investigate any report by any employee of BHE of a violation or suspected violation of the requirements of Chapters 304 and 820;
4. the obligation and authority to correct, or to refer to any appropriate manager or officer for correction, any actions not in compliance with the requirements of Chapters 304 and 820 and to maintain a written record of all such incidents;
5. the obligation to report to BHE’s COO or General Counsel any suspected violations of Chapters 304 and 820;
6. the obligation to maintain the log of complaints as required by Chapter 304(3)(M)(1);
7. the obligation to ensure that all present and new BHE employees are provided with a copy of this Plan and are informed of the requirements of Chapters 304 and 820; and

8. the obligation to assist the PUC with any inquiries into BHE's compliance with Chapters 304 and 820.

The Compliance Officer shall not have the responsibility of investigating complaints brought against BHE under Chapter 304(3)(M). Such complaints shall be subject to the dispute resolution procedures outlined in Section III(M) of this Plan below.

B. Amendment to BHE Employment Policies and Procedures. On or prior to the effective date of this Plan, BHE's written employee policies and procedures shall be reviewed for compliance with the provision of this Plan and Chapters 304 and 820. To the extent any employee policy or procedure is identified as inconsistent with this Plan or Chapters 304 and 820, said policy or procedure shall be amended for consistency with this Plan and Chapters 304 and 820. All such amendments shall be posted in BHE's office in the same manner as required for minimum wage information under 26 M.R.S.A. § 668 and all employees of BHE shall receive a written copy of any such amendment.

C. Employee Education. In order to ensure compliance with this Plan, BHE shall take the following steps:

1. Copies of Chapter 304 shall be posted in BHE's offices in the same manner as required for minimum wage information under 26 M.R.S.A. § 668;

2. Copies of this Plan shall be distributed to all employees of BHE and maintained in a public place;

3. Within 90 days of the effective date of this Plan, BHE management shall meet with all employees of BHE and EES to explain the requirements of this Plan, Chapters 304 and 820, and answer any question regarding the requirements set forth herein;

4. When any new employee is hired by BHE or EES, as part of the employee orientation process, BHE shall:

- a. provide the new employee with a copy of this Plan;
- b. explain the requirements of this Plan, Chapters 304 and 820; and
- c. answer any questions the new employee may have about compliance with this Plan.

III. Specific Provisions of Chapters 304 and 820

In order to comply with the specific Standards of Conduct set forth in Chapter 304(3) and Chapter 820(8), BHE shall implement the following practices:

A. No Preference. The delivery of any regulated product or service shall be the subject of a tariff or contract filed with and/or approved by the PUC. All charges and fees to CEPs for any other activity shall be pursuant to BHE's jobbing rates for non-regulated activity and said charges and fees shall be uniformly applied to affiliated and nonaffiliated CEPs.

B. Services Provided Without Discrimination. All discounts, rebates, fee waivers and any other regulated products or services shall be provided in accordance with tariffs or contracts approved by the PUC and shall be made available to all customers and CEPs, regardless of affiliation, simultaneously whenever technically feasible and without undue or unreasonable discrimination.

C. Posting. All regulated products and services shall be offered by BHE only through tariffs or contracts filed and approved by the PUC.

D. Request for Regulated Products. All requests by any BHE customer or CEP, whether affiliated or unaffiliated, shall be processed in accordance with the appropriate BHE standard operating procedures. As far as is practicable, BHE shall process requests for regulated products from CEPs in the order the requests were received.

E. No Tying. No BHE employee, nor any BHE tariff or contract, may condition or tie the provision of any regulated service, product, or rate agreement to the provision of any product or service offered by EES.

F. Requests for Information. With regard to any request for information, BHE employees shall:

1. process requests for information from affiliated CEPs and nonaffiliated CEPs in the same manner and within the same period of time, and will process these requests in the order in which they are received;
2. BHE shall designate the Customer Support Services Group as the initial point of contact for any inquiry by any CEP. The Customer Support Services Group shall attempt to satisfy the CEP's request. If the Customer Support Services Group is unable to respond to the CEP's request, the Customer Support Services Group shall inquire with the appropriate BHE employee to obtain a response to the CEP's request without divulging the identity of the CEP.
3. not provide information to affiliated CEPs without a request if the same information would be provided to nonaffiliated CEPs only if requested;
4. not allow an affiliated CEP access to any nonpublic information requested by the affiliated CEP regarding BHE's distribution system or customers taking service from BHE that BHE has obtained as a result of BHE's status as a provider of core utility services if such nonpublic information is not also made available to nonaffiliated CEPs upon request;
5. not provide any CEP preferential access to nonpublic information;

6. ensure that the Customer Support Services Group receives the following information for each request for inclusion in the log of requests by CEPs for commercial information as required by Chapter 304(3)(H):

- a. name of the entity making the request;
- b. nature and date of the request;
- c. date and nature of BHE's response to the request.

G. Employees. BHE employees, when handling market information obtained from CEPs shall:

1. refer all requests for market information to the Legal, Regulatory and Rates Department for initial review.

2. not share any market information obtained from one CEP with any other CEP unless:

- a. the market information is publicly available; or
- b. the CEP providing the market information gives consent.

3. not share any market information developed by BHE in the course of responding to requests for distribution service, unless the information is generally publicly available. Any questions regarding what constitutes "market information" shall be referred to BHE's General Counsel.

H. Log of Information Requests. The Customer Support Services Group shall maintain the Log for the purpose, and containing the information, described in Chapter 304(3)(H).

I. Promotion of Affiliate; Joint Marketing.

1. No BHE employee, officer, or director may, at any time, make public reference to the affiliation between BHE and EES except in the manner provided in this section. This section shall not, however, apply to (a) any communication, report, or other requirement to provide information imposed by any federal, state, or local statute, regulation, or ordinance; or any order or practice of the PUC; (b) testimony before any judicial, administrative, or legislative body; (c) information provided pursuant to any financial instrument; or (d) any communication for any other corporate purpose not inconsistent with the requirements of Chapter 304(3)(I). As used in this section, "public" shall exclude any persons (a) employed by BHE or EES; (b) officers and directors of BHE or EES; (c) BHE or EES retirees; or (d) members of any such employee's, officer's, or director's immediate family.

2. No employee, officer, or director of BHE or EES shall in any way represent that any advantage shall accrue to any person in the use of BHE's services as a result of that person's or other's doing business with EES.

3. No BHE employee, officer, or director shall promote, or engage in any joint promotion, advertising, or marketing, of any EES product or service. No EES employee, officer, or director shall promote, or engage in any joint promotion, advertising, or marketing, of any BHE product or service.

4. If any BHE employee receives a request from a BHE customer for information regarding CEPs or the availability of generation service, that employee shall refer the customer to the Customer Support Services Group and shall not provide the customer with any information on this subject. This provision shall not apply to any BHE employee whose principal duties consist of contact with customers, as designated by BHE's CEO or General Counsel.

5. When an employee of the Customer Support Services Group or any employee excluded from the prohibition in subsection (4) above, receives an inquiry from a BHE customer about CEPs or the availability of generation service, the BHE employee shall supply the customer with the most recent list of CEPs issued by the PUC and prepared by BHE for this purpose. The list of CEP's shall be updated, and the order of names on the list shall be shuffled, every 60 days. The employee shall make no comment of any kind to the customer regarding any CEP on the list except as provided in subsection (7) below.

6. Except for those employees listed in subsection (7) below, no BHE or EES employee shall disclose to any member of the public the affiliation between BHE and EES. If the employee receives a direct inquiry from any member of the public about the affiliation, the employee shall direct that person to the Legal, Regulatory and Rates Department and inform that person that the employee is not allowed to provide any additional information.

7. Upon receiving a direct inquiry about the nature of the affiliation between BHE and EES, the following individuals may disclose the affiliation subject to the conditions in this subsection:

- a. any BHE employee of the Legal, Regulatory and Rates Department;
- b. any BHE officer or director;
- c. any EES officer or director.

Upon receiving a direct inquiry, these individuals shall provide the following information:

EES is affiliated with BHE, but

- a. EES is not regulated by the PUC;
- b. no advantage shall accrue to any customer of EES due to EES' relationship with BHE; and
- c. customers of BHE may select any CEP.

Attached to this Plan as Exhibit “A” is a script to be used by these employees in responding to direct inquiries regarding the affiliation between BHE and EES.

J. No Recommendation. Consistent with the procedures set forth in Section (I)(5) above, no employee of BHE shall provide an opinion regarding the reliability, experience, qualifications, financial capability, managerial capability, operations capability, customer service record, consumer practices or market share of EES or any nonaffiliated CEP.

K. Sharing of Employee Prohibition. BHE shall not share employees with EES except to the extent permitted by the PUC.

L. Books. BHE shall maintain separate books of accounts and records from EES, which shall be subject to review by the PUC

M. Dispute Resolution. A complaint by any person who is not an employee of BHE or EES that alleges any violation by BHE or EES of Chapters 304 or 820 or any provision of this Plan shall be handled in accordance with the following dispute resolution procedure:

1. The Complainant shall first bring the alleged violation to the attention of the Compliance Officer, or in the Compliance Officer’s absence, to the Company’s Director, Business Services. This employee shall enter the complaint into the Complaint Log and shall attempt to informally resolve the dispute with the complainant within 5 business days of receipt of the complaint. If the complaint cannot be resolved informally, it is subject to the procedures set forth in the remainder of this section.

2. The complainant shall provide the Compliance Officer with a written copy of the complaint. The written complaint need not conform to any particular form, but it must be sufficiently detailed to inform BHE of the precise conduct that is the basis for the complaint, must state the BHE or EES employees alleged to have violated Chapters 304 or 820 or this Plan, and must state the specific sections of the PUC’s rules or this Plan which have allegedly been violated. The Compliance Officer shall have the authority to reject any complaint that does not conform to these requirements. If a complaint is rejected, the complainant shall be notified of the rejection within thirty (30) days of receipt of the complaint. If the complaint is rejected for failure to comply with the requirements of this Section III(M)(2), the complainant may file an amended complaint with the Compliance Officer.

3. Once the Compliance Officer accepts the complaint, he or she shall take the following steps to resolve the complaint:

- (a) Unless both BHE and the complainant agree to submit the complaint directly to outside arbitration as set forth in (b) below, the Compliance Officer shall refer the complaint to a Review Committee comprised of BHE’s General Counsel and two other employees selected by BHE’s President. The Review Committee shall investigate the complaint, determine whether any violation has occurred, and propose a

recommended remedy for any violation that may have occurred. These findings and recommendations, if any, shall be in writing and shall be provided to the complainant within 30 days of receipt of the complaint. BHE and the complainant may mutually agree to accept the findings and recommendations of the Review Committee as a full and final resolution of the complaint.

- (b) If BHE and the complainant cannot agree to accept the findings and recommendations of the Review Committee, the Compliance Officer shall refer the complaint to outside arbitration. The individual selected by the Compliance Officer shall not have any material relationship with either BHE or the complainant, and may, but need not, include a member of an independent law firm that has not been routinely retained by BHE or the complainant. The outside arbitrator shall investigate the complaint, determine whether any violation has occurred, and prepare a recommended remedy for any violation that may have occurred. These findings and recommendations, if any, shall be in writing and shall be provided to BHE and the complainant within 60 days after the referral. BHE and the complainant may mutually agree to accept the findings and recommendations as a full and final resolution of the complaint.

4. If BHE and the complainant are unable to accept the findings and recommendations of the outside arbitrator, BHE shall inform the complainant of his or her right to file a complaint with the PUC.

5. The Compliance Officer shall maintain a Complaint Log for the purpose, and containing the information, described in Chapter 304(3)(M)(1).

N. Separate Records. BHE shall maintain its books of accounts and records of transmission and distribution operations separately from EES, which shall be subject to review by the PUC.

O. Notice of Stock Acquisition. BHE shall notify the PUC in the event that any entity acquires 10% or more of its stock.

P. No Subsidization. BHE may not subsidize the business of EES at ratepayer expense unless authorized by the PUC.

Q. Compliance with Chapter 820. All BHE and EES employees shall comply with all applicable provisions of Chapter 820.

Adopted by Bangor Hydro-Electric Company this _____ day of _____, 2002.

Ray Robinson, President
Bangor Hydro-Electric Company

EXHIBIT A

Those officers and employees allowed to disclose the relationship between BHE and EES shall state as follows:

Because BHE and EES are owned by the same parent company, they are affiliated, but

- (a) EES is not regulated by the MPUC;
- (b) No advantages will accrue to any customer of EES due to EES's relationship with BHE;
- (c) The customer may select any competitive provider he or she wishes.

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